



**MINUTES
SCOTTSDALE PLANNING COMMISSION
MAYO CLINIC-ASHTON TAYLOR AUDITORIUM
13400 E SHEA BOULEVARD
AUGUST 18, 2004**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Eric Hess, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

STAFF: Pat Boomsma
Tim Curtis
Kurt Jones
Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:05 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

July 14, 2004

APPROVED

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE JULY 14, 2004 MINUTES AS PRESENTED. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

CONTINUANCES

17-UP-2003 (Duke's Bar & Grill) request by Beus Gilbert PLLC, applicant, Community Centers of America Plaza Del Rio LLC, owner, for a conditional use permit for expansion of the existing pool hall use within the existing structure which is on a 3 +/- acre parcel located at 7607 E. McDowell Road and Highway Commercial District (C-3) zoning. **Continued to September 1, 2004.**

20-UP-2004 (Duke's Bar & Grill) request by Beus Gilbert PLLC, applicant, Community Centers of America Plaza Del Rio LLC, owner, for a conditional use permit for a bar within an the existing structure which is on a 3 +/- acre parcel located at 7607 E. McDowell Road and Highway Commercial District (C-3) zoning. **Continued to September 1, 2004.**

7-UP-2004 (Sonrise Community Church) request by Dale Miller Architects, applicant, Sonrise Community Church, owner, for a conditional use permit for a private/charter school on a 9.2 acre +/- acre parcel located at 29505 N Scottsdale Road with Single Family Residential, Environmentally Sensitive Lands District, Foothills Overlay (R1-70 ESL FO). **Continued to September 1, 2004.**

COMMISSIONER HEITEL MOVED TO CONTINUE CASES 17-UP-2003, 20-UP-2004 AND 7-UP-2004 TO THE SEPTEMBER 1, 2004 PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER STEINKE.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

EXPEDITED AGENDA

13-ZN-2004 (William Allen Rezone) request by Jekel & Howard LLP, applicant, William C. Allen, owner, to rezone from Single Family Residential District (R1-35) to Single Family Residential District (R1-10) on a 1 +/- acre parcel located at the 7300 block of E. Kalil Drive.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 13-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

3-GP-2004 (Horseman's Park – South Parcel) request by Beus Gilbert PLLC, applicant, North Scottsdale PK INV LTD Part 1, owner, for a General Plan Amendment from Suburban Neighborhoods to Office on a 4.6 +/- acre parcel located at the northeast corner of 98th Street and McDowell Mountain Ranch Road.

CHAIRMAN GULINO stated as a reminder the Commission will not be voting on cases 3-GP-2004 or 6-GP-2004 and will act on September 15, 2004.

MR. CURTIS presented the General Plan Amendment portion of the case in fulfillment of the State legislation for remote hearings.

VICE CHAIRMAN STEINBERG inquired if the land contiguous to the north would be developed as residential. Mr. Curtis replied this is now zoned R1-5 with the preliminary plat that is being processed within the city.

JOHN BERRY, 4800 N. Scottsdale Road, representing the applicants, stated if you will recall at a study session meeting sometime ago, the parcel to the north they had submitted a General Plan amendment to change it to minor office to SR in order meet the filing requirements for major amendment to the General Plan, At that time he committed to the Commission that if the zoning case were approved by the City Council they would withdraw that portion of the application. He stated that he wanted them to know we kept our commitment.

He stated that he would like to address a question that was raised in study session regarding major amendments to the General Plan. He discussed the State Statute criteria for General Plan amendments. He further stated that he would encourage the Commission to ask staff whether that criteria is still relevant in the City of Scottsdale given the fact this case is a minor amendment if you look at it in context.

Mr. Berry provided a brief overview of this request stating that it is an excellent proposal that buffers WestWorld, buffers the neighborhood, provides appropriate transition, and meets all the criteria of the General Plan amendment. He commented that he would beg to differ that it is a major amendment but they are dealing with the rules and meet all of the criteria for a General Plan. They are not aware of any neighborhood opposition and will continue to work with the neighbors in the area. They are on record and have committed to file SR zoning application not a CO application to assure the heights are limited to 18 feet adjacent to these neighbors.

COMMISSIONER HEITEL inquired if the reason this is a major General Plan amendment is because of the criteria in the planning code. Mr. Berry replied in

the affirmative. He explained that the criterion is approved by the City Council. He stated that he would encourage them to take a hard look at the criteria. Commissioner Heitel expressed his confusion regarding how a one-acre case becomes as defined in the statutes as a substantial alteration of municipality land use balance, he is trying to grapple with that in fairness to the applicants who come forward and spend this type of money and time. Mr. Berry explained the State legislature gives each city the ability to determine what the substantial alteration of the balance of mix for the entire city was. The City of Scottsdale chose to say that if one-acre does not meet this grid would substantially alter the balance of the uses in the community.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

LEON SPIRO, 7814 E. Oberlin Way, stated that he does not object to this request. He further stated that his concern is the encroachment on the 33-foot GLO roadway easement, which is a federal land patent roadway and public utility easement. He remarked that he has questions for the client's law firm attorney. When were the two parcels making four six-acre parcels lot tied? He further remarked that he believed there is private property right being ignored if the city permits blocking and fencing of public utility rights. He commented that the client should get legal advice in writing.

He requested the following questions be answered:

1. Is the previous Council's decision to disregard the "risk factor" because of a possible private property rights issue, binding on this new Council and this present Planning Commission?
2. Did any member of the city staff other than the Engineering Services Director have the authority to abandon and/or exchange a GLO roadway easement? (Reference Ordinance 1386)
3. As in the past, is the Council/Planning Commission only "abandoning the city's interest and the public's right to these GLO-Federal Land Patent Reservations?"

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. BERRY stated that with regard to what the private sector would do is best answered by the Title Insurance Companies that insure against potential risk over the abandoned GLO easements.

MS. BOOMSMA stated with regard to question No. 1 the answer is that the previous Council direction controls until the direction is changed. She further stated that the other two questions are not legal questions. Mr. Jones stated that staff will get a copy of the other two questions and respond to them.

6-GP-2004 (Miller & McDonald) request by Dei Professional Services, applicant, Arizona American Water Company, owner, for a General Plan Amendment from Rural Neighborhoods to Office on a 4 +/- acre parcel located at 5975 N. Miller Road (Southeast corner of McDonald Drive & Miller Road).

MR. WARD presented the General Plan Amendment portion of the case in fulfillment of the State legislation for remote hearings.

VICE CHAIRMAN STEINBERG inquired if there is a site plan that shows the utilization of the site.

RON BRISETTE, Brissette Architects, reviewed the renderings noting that the proposed buildings would be residential in character and scale.

VICE CHAIRMAN STEINBERG stated the parking seems to be excessive. He inquired if the parking would be used for professional use or for the Water Company. Mr. Brissette replied it would be for professional use. Vice Chairman inquired if there is a light at the intersection. Mr. Brissette stated that he did not believe there was. Chairman Gulino reported there is a signal.

COMMISSIONER HEITEL inquired if the traffic from that office would migrate into the residential neighborhood by using the south entrance. Mr. Brissette stated that the traffic engineer has not reviewed this but he thought most of the traffic would go towards the arterioles.

COMMISSIONER SCHWARTZ inquired about the neighborhood outreach that has taken place.

CORRINA ESPIRITU, stated she represents Jason Kack who is with Dei Professional Services. She further stated most of the concerns raised were regarding traffic congestion and the height of the building. She further stated that most of the neighbors are for this project because it would improve the landscape.

COMMISSIONER SCHWARTZ inquired if they went door to door. Ms. Espiritu replied in the negative.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

B.J. GONZALES, 6349 N. Cattletrack Road, stated that his residence is directly north of McDonald Road. He stated he is here on behalf of himself and some of the residents in his area, which is the northwest part of Cattle track. Their concern is not with the project but with what Arizona American Water Company is doing. There is a similar proposal on the North side of McDonald. This proposal may in fact alter some of the other applications for the other proposal

area that they have in recognition right now. The timing seems to be done on purpose so to jeopardize utilizing this site in a different manner that may not be consistent with the area. He expressed concern regarding the applicant and their motives for doing things.

COMMISSIONER SCHWARTZ inquired if Mr. Gonzales has had an opportunity to meet with Arizona American Water Company and discuss their plans. Mr. Gonzales replied in the affirmative. Commissioner Schwartz stated that he would encourage Mr. Gonzales between now and the hearing to sit down with the architects to get a better picture of the plan. Mr. Gonzales stated that he has met with city staff and with the Water Company and no one has been able to present him with the full proposal.

VICE CHAIRMAN STEINBERG asked Mr. Gonzales if he has been involved with the rezone west of the site. Mr. Gonzales replied in the negative other than attending the open houses. The concern is with how the proposals are being done and how business is being done with Arizona American Water Company. They want to keep a view on what is happening.

TAMARA MONSON, 7749 E. Solano Drive, stated that she would like to express her high degree of surprise that the people representing the applicant at this meeting have no concept of the neighborhood they are discussing. She further stated as a resident who runs the canals, and drives along McDonald on a daily basis, and lives 750 feet of the property in question. It is her view that the request for this General Plan amendment should be rejected. She reported that she does not want to walk, bike, or drive through her neighborhood and see two more architecturally dissimilar office buildings. She further reported that there is not a need for more office buildings in this area because there are already office space available signs in this area. She discussed her traffic concerns in this area. She noted that she did not want her neighborhood to be even more disjointed and in danger of losing the remaining bit of cohesive attractiveness. She provided an overview of what is currently in this area. She requested they stop the unnecessary sprawl of office space and empty office space.

VICE CHAIRMAN STEINBERG inquired what Ms. Monson would rather see here. Ms. Monson replied residential. She stated that she did not think the applicant had even considered multi-family dwellings.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER BARNETT inquired about the rural neighborhood designation shown on the map. Mr. Jones stated it should show as office designation.

CHAIRMAN GULINO inquired what is Dei's relationship to this project. Ms. Espiritu replied Dei is the engineering firm hired by Arizona American Water

Company to start this whole process. Chairman Gulino suggested that the owner needs to be at the hearing unless they can get up to speed before the hearing.

COMMISSIONER SCHWARTZ suggested that the applicant's representatives go door to door to the immediate adjacent neighborhood and show them the site plan and get their comments before the hearing.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 6:10 p.m.

Respectfully Submitted,

"For the Record " Court Reporters